

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(b) Require parties to state their position with respect to the various issues in the proceedings.

(c) Establish rules for media coverage of the proceedings.

(d) Rule on motions and other procedural items in matters before him.

(e) Regulate the course of the hearing, the conduct of counsel, parties, witnesses, and other participants.

(f) Administer oaths, call witnesses on his own motion, examine witnesses, and direct witnesses to testify.

(g) Receive, rule on, exclude, or limit evidence.

(h) Fix time limits for submission of written documents in matters before him.

(i) Take any action authorized by these regulations, by 5 U.S.C. 556, or by other pertinent law.

#### APPEARANCE AND PRACTICE

##### §4.808 Participation by a party.

Subject to the provisions contained in part 1 of this subtitle, a party may appear in person, by representative, or by counsel, and participate fully in any proceeding held pursuant to part 17 of this title and these regulations. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf.

##### §4.809 Determination of parties.

(a) The affected applicant or recipient to whom a notice of hearing or a notice of an opportunity for hearing has been mailed in accordance with part 17 of this title and §4.815, and the Director, are the initial parties to the proceeding.

(b) Other persons or organizations shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings.

(c) A person or organization wishing to participate as a party under this section shall submit a petition to the administrative law judge within 15 days after the notice has been served. The petition should be filed with the administrative law judge and served on the affected applicant or recipient, on the Director, and on any other person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The administrative law judge shall promptly ascertain whether there are objections to the petition. He shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The administrative law judge shall give each such petitioner written notice of the decision on his petition. If the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as *amicus curiae*. The administrative law judge shall give written notice to each party of each petition granted.

(e) Persons or organizations whose petition for party participation is denied may appeal the decision to the Director, Office of Hearings and Appeals, within 7 days of receipt of denial. The Director, Office of Hearings and Appeals, will make the final decision for the Department to grant or deny the petition.

##### §4.810 Complainants not parties.

A person submitting a complaint pursuant to §17.6 of this title is not a party to the proceedings governed by

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part 17 of this title and these regulations, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

#### **§ 4.811 Determination and participation of amici.**

(a) Any interested person or organization wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. Such petition shall concisely state the petitioner's interest in the hearing and who will represent petitioner.

(b) The administrative law judge will grant the petition if he finds that the petitioner has an interest in the proceedings and may contribute materially to the disposition of the proceedings. The administrative law judge shall give the petitioner written notice of the decision on his petition.

(c) An amicus curiae is not a party and may not introduce evidence at a hearing but may only participate as provided in paragraph (d) of this section.

(d) An amicus curiae may submit a written statement of position to the administrative law judge at any time prior to the beginning of a hearing, and shall serve a copy on each party. He may also file a brief or written statement on each occasion a decision is to be made or a prior decision is subject to review. His brief or written statement shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(e) When all parties have completed their initial examination of a witness, any amicus curiae may request the administrative law judge to propound specific questions to the witness. The administrative law judge, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

#### **43 CFR Subtitle A (10-1-08 Edition)**

##### **FORM AND FILING OF DOCUMENTS**

#### **§ 4.812 Form.**

Documents filed pursuant to a proceeding herein shall show the docket description and title of the proceeding, the party or amicus submitting the document, the dates signed, and the title, if any, and address of the signatory. The original will be signed in ink by the party representing the party or amicus. Copies need not be signed, but the name of the person signing the original shall be reproduced.

#### **§ 4.813 Filing and service.**

(a) All documents submitted in a proceeding shall be served on all parties. The original and two copies of each document shall be submitted for filing. Filings shall be made with the administrative law judge or other appropriate Departmental official before whom the proceeding is pending. With respect to exhibits and transcripts of testimony, only originals need be filed.

(b) Service upon a party or amicus shall be made by delivering one copy of each document requiring service in person or by certified mail, return receipt requested, properly addressed with postage prepaid, to the party or amicus or his attorney, or designated representative. Filing will be made in person or by certified mail, return receipt requested, to the administrative law judge or other appropriate Departmental official before whom the proceeding is pending.

(c) The date of filing or of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person.

#### **§ 4.814 Certificate of service.**

The original of every document filed and required to be served upon parties shall be endorsed with a certificate of service signed by the party or amicus curiae making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service.